IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.MC.No. 2536 of 2007()

CC.567/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PATTAMBI

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PETITIONER:

J.JOY, CHALIL POICKA HOUSE,
MULAVAN P.O.,
KUNDARA,KOLLAM DISTRICT.

BY ADV. SRI.M.AJAY

RESPONDENTS:

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1. THE STATE OF KERALA (REPRESENTED BY ITS PUBLIC PROSECUTOR), HIGH COURT OF KERALA, ERNAKULAM.

2. THE CIRCLE INSPECTOR OF POLICE, PATTAMBI, PALAKKAD DISTRICT.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 2536 OF 2007

Dated this the 8th day of August, 2007

ORDER

The petitioner is a retired Circle Inspector of Police, who, it is alleged, after his retirement, has settled down in Bangalore. He was required to be examined as a witness in a case before the learned Judicial Magistrate of the First Class, Pattambi. According to the petitioner, he did not receive notice and consequently he did not appear before the learned Magistrate. The learned Magistrate has now initiated coercive proceedings against the petitioner. Proclamation has also been effected. The petitioner has various grievances to raise against the proclamation issued against him.

2. The learned counsel for the petitioner submits that he had no knowledge of the proceedings and that the absence of the petitioner before the learned Magistrate was not wilful or deliberate. The learned counsel for the petitioner prays that

appropriate directions may be issued in the matter.

3. Having considered all the relevant circumstances, I am satisfied that appropriate directions can be issued under Sec.482 of the Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear. I have no reason to assume that the learned Magistrate would not consider such request of the petitioner on merits, in accordance with law and expeditiously.

4. In the result, this petition is allowed in part. It is directed:

(i) that the petitioner shall appear before the learned Magistrate on 9/8/07.

(ii) the warrant of arrest issued against the petitioner and other coercive process shall not be executed till 9/8/07.

(iii) the petitioner, when he appears before the learned Magistrate, shall explain to the learned Magistrate the circumstances under which he could not earlier appear and the learned Magistrate, considering such submissions of the petitioner, shall pass appropriate further orders on merits in the matter.

5. Hand over a copy of this order to the learned counsel for the petitioner. Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. To Judge